

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Peter D. Kwong et al.
Serial No. : Not Yet Known
(U.S. National Stage of PCT/US98/23905,
filed 10 November 1998)
Filed : Herewith
For : CRYSTAL COMPRISING HUMAN IMMUNODEFICIENCY
VIRUS ENVELOPE GLYCOPROTEIN gp120, COMPOUNDS
INHIBITING CD4-gp120 INTERACTION, COMPOUNDS
INHIBITING CHEMOKINE RECEPTOR-gp120
INTERACTION, MIMICS OF CD4 AND gp120 VARIANTS

1185 Avenue of the Americas
New York, New York 10036

Assistant Commissioner for Patents
Washington, D.C. 20231

DECLARATION OF JOHN P. WHITE IN
SUPPORT OF PETITION TO REVIVE UNINTENTIONALLY
ABANDONED APPLICATION UNDER 37 C.F.R. §1.137(b)

I, John P. White, Esq. hereby declare that:

1. I am a partner at Cooper & Dunham LLP, the outside patent counsel of Columbia University, the coassignee (as The Trustees of Columbia University in the City of New York) of the above-identified PCT application.
2. At all relevant times, Ofra Weinberger, Ph.D. who is Director of the Health Sciences Division of Columbia Innovation Enterprise ("CIE") of Columbia University was responsible for instructing Cooper & Dunham LLP regarding PCT application No. PCT/US98/23905, filed 10 November 1998 ("the PCT Application").

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3. This Declaration is submitted in support of a Petition to Revive an Unintentionally Abandoned Application under 37 C.F.R. §1.137(b) in connection with the PCT International Application. In the PCT Application, the deadline for entering the United States national stage was May 10, 2000, thirty (30) months from the United States priority date.
4. At a March 7, 2000 meeting with Ofra Weinberger, we discussed the deadline for national stage entry of the PCT Application in the designated countries. However, Ofra Weinberger did not make a decision and told me that she would advise Cooper & Dunham LLP at a future date whether to proceed with national stage entry by the May 10, 2000 deadline.
5. On May 9, 2000, Joshua Landa, a legal assistant in my office, telephoned Ofra Weinberger to obtain instructions concerning the designated countries, if any, in which the PCT application was to enter the national or regional stage. Ofra Weinberger instructed Mr. Landa that the PCT Application would not enter the national or regional stage. Accordingly, the PCT Application did not enter the national stage in the United States by the May 10, 2000 deadline.
6. I confirmed my understanding of Ofra Weinberger's instructions not to enter the national or regional stage in a letter dated May 9, 2000.

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7. On May 22, 2001, Ofra Weinberger telephoned Elizabeth Wieckowski, Esq., an associate in my office at the time and who is registered to practice before the United States Patent and Trademark Office, to explain that she intended her instructions to apply only to the designated "foreign" countries, not to the United States and that it was always her intention that the subject PCT Application should enter the national stage in the United States. Ofra Weinberger advised Ms. Wieckowski that due to her own unintentional oversight, she believed that my letter confirming her instructions not to enter the national or regional stage applied only to the designated "foreign" countries, and that she failed to notice that the United States was listed together with the designated "foreign" countries.
8. During a May 23, 2000 telephone conference, Ofra Weinberger requested that Elizabeth Wieckowski, Esq., an associate in my office at the time, take whatever action was necessary so that the PCT Application would enter the national stage in the United States.
9. On May 23, 2000, I received written instructions from Ofra Weinberger to proceed with reviving the unintentionally abandoned national stage of the PCT Application in the United States.
10. Upon receiving these instructions, I directed Elizabeth

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Wieckowski to take all necessary steps to revive the U.S. national stage of the PCT Application, and was mistakenly under the impression of she had done so and that the U.S. national stage application had been revived.

11. On or about March 20, 2001, Ofra Weinberger requested copies of the PCT Application and the corresponding national stage application. Since Elizabeth Wieckowski had ceased to be employed by Cooper & Dunham LLP some weeks earlier, I asked Spencer Schneider, Esq., an associate at Cooper & Dunham LLP, to prepare and provide the requested copy. Upon inspecting the file of the application, Mr. Schneider discovered that although drafts of papers for seeking revival of the application had been prepared, no petition for revival had ever been filed, and the application had in fact never been revived.
12. Until Mr. Schneider discovered that the application had not been revived, I believed that it had been revived and was pending. At no time after receiving instructions to revive the application in May 2000 was it my intention that the application not be revived.
13. On April 23, 2001, immediately upon hearing of Mr. Schneider's discovery, I assigned him to revive the subject application.
14. The entire delay in filing the U.S. national stage

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transmittal papers, from the May 10, 2000 due date for
national stage entry, until the filing of a grantable
petition pursuant to 37 C.F.R. §1.137(b), was
unintentional.

I hereby declare that all statements made herein of my own
knowledge are true and that all statements made on information and
belief are believed to be true; and further that these statements
were made with the knowledge that willful false statements and the
like so made are punishable by fine or imprisonment, or both, under
§ 1001 of Title 18 of the United States Code and that such willful
false statements may jeopardize the validity of the application or
any patent issued thereon.

Date: 5/7/01

John P. White
John P. White, Esq.